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**Criminal Justice & Corrections  
Committee**

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**HB 2184**

**Brief Description:** Authorizing credit for time served in a presentence day reporting program.

**Sponsors:** Representatives Kagi and Darneille.

**Brief Summary of Bill**

- Following arraignment of a person accused of a non-violent and non-sex offense, creates a discretionary option for courts to release such a person into a Pre-sentence Day Reporting Program as a condition of release.
- Subject to the court's approval, allows a person released into a Pre-sentence Day Reporting Program to receive credit towards his or her total sentence for satisfactory participation in the program.

**Hearing Date:** 3/1/05

**Staff:** Kathryn Leathers (786-7114).

**Background:**

When an accused person is arraigned on a noncapital case, court rule establishes a presumption that the person should be released on his or her own recognizance and not be confined pending trial or resolution of the matter. A person accused of a noncapital offense is released unless:

- the court determines that release will not reasonably assure the accused's appearance;
- there is a likely danger that the accused will commit a violent crime; or
- there is a likely danger that the accused will seek to intimidate witnesses or otherwise unlawfully interfere with the administration of justice.

In making a determination of whether an accused will be released, the court must consider all relevant factors, including but not limited to the following: the accused's history of response to legal process; the accused's employment status and history; the accused's enrollment and participation in an educational, training, counseling, or treatment program; the accused's family ties and relationships; the accused's reputation, character, and mental condition; the length of the accused's residence in the community; the accused's criminal record; the willingness of responsible members of the community to vouch for the accused's reliability and assist him or her in complying with any conditions of release; the nature of the charge, if relevant to the risk of nonappearance; and any other factors indicating the accused's ties to the community.

If the court determines that the accused is not likely to appear at future hearings if released on his or her own personal recognizance, the court must impose the least restrictive of the following conditions that will reasonably assure that the accused will be present for later hearings, or, if no single condition gives that assurance, any combination of the following conditions:

- place the accused in the custody of a designated person or organization agreeing to supervise the accused;
- place restrictions on the travel, association, or place of abode of the accused during the period of release;
- require the execution of a bond in a specified amount;
- require the accused to return to custody during specified hours or to be placed on electronic monitoring, if available; or
- impose any condition other than detention deemed reasonably necessary to assure appearance as required.

The courts have ruled that the Sentencing Reform Act (SRA) provides that the sentencing court must give an offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced. Further, the courts have found that the SRA clearly provides credit against a sentence for time served in pre-sentence "partial confinement."

By statute, "partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention or work crew has been ordered by the court, for a substantial portion of each day with the balance of the day spent in the community. "Partial confinement" includes work release, home detention, and work crew. However, it does not include other enhanced supervision that might be imposed by a court when releasing an accused person from pre-sentence confinement.

### **Summary of Bill:**

A Pre-sentence Day Reporting Program is established for non-violent and non-sex offenders who might otherwise remain incarcerated pending trial or other resolution of the matter. A "Pre-sentence Day Reporting Program" is defined as a program that includes enhanced supervision designed to monitor the accused's daily activities and compliance with pre-sentence conditions. Sentencing courts may convert satisfactory participation in a Pre-sentence Day Reporting Program into time served. The conversion rate for such participation is eight consecutive hours of satisfactory participation for one day of time served.

Prior to sentencing, the Pre-sentence Day Reporting Program must submit to the court a report detailing the activities participated in by the offender and assessing the offender's level of participation in those activities. The court must consider the day reporting program's report in determining whether an offender's sentence should be credited with time served for participation in the program. If the court declines to credit the offender for any such participation in a Pre-sentence Day Reporting Program, the court must state on the record or in writing the reasons for declining to do so.

The statutory definition of "partial confinement" is amended to include a "day reporting" program.

**Appropriation:** None.

**Fiscal Note:** Requested on February 25, 2005.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.